

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JEROME YOUNG,

Petitioner,

v.

Case No. 10-11036
Hon. Lawrence P. Zatkoff

LLOYD RAPELJE,

Defendant.

**OPINION AND ORDER ADOPTING
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION AND DENYING
PETITIONER'S CERTIFICATE OF APPEALABILITY**

This matter comes before the Court on Magistrate Judge Komives's Report and Recommendation [dkt 11], in which the Magistrate Judge recommends that the Court deny Petitioner's Petition for Writ of Habeas Corpus [dkt 1] and find that Petitioner is not entitled to a certificate of appealability. Petitioner has timely filed Objections to the Report and Recommendation [dkt 12].

The Court has thoroughly reviewed the court file, the Report and Recommendation, and Petitioner's Objections. As a result of that review, the Court **OVERRULES** Petitioner's Objections, **ADOPTS** the Report and Recommendation, and enters it as the findings and conclusions of this Court. The Court, however, will briefly discuss Petitioner's Objections.

Petitioner raises three Objections. Petitioner first contends that the Magistrate Judge erred in finding that Sergeant Hansberry's testimony commenting on the truth of the statement Petitioner provided to law enforcement did not cause a substantial impact on the jury's verdict. As the

Magistrate Judge correctly noted, “it was apparent to the jury by the very fact that criminal charges were brought . . . that the police did not believe [P]etitioner’s version of events.” Therefore, Sergeant Hansberry’s testimony regarding the credibility of Petitioner did not prejudice Petitioner’s trial. Furthermore, as the record indicates, the jury was provided an instruction that its role was to weigh the credibility of the evidence, including any testimony provided by police officers.

Petitioner’s second objection relates to the Magistrate Judge’s finding regarding the prosecutor’s questioning of Petitioner that resulted in Petitioner testifying that the police officers were lying. Petitioner contends that this questioning substantially impacted the jury’s verdict. The Court overrules Petitioner’s objection because, as the Magistrate Judge explained, the Supreme Court has not directly held that a prosecutor commits misconduct by asking a defendant whether government witnesses are lying. Therefore, the Michigan Court of Appeals’ determination that the prosecutor’s questioning did not have a substantial impact on the jury’s verdict is reasonable.

Petitioner’s third objection involves the Magistrate Judge’s denial of a certificate of appealability. According to Petitioner, the Magistrate Judge erred because reasonable jurists could debate the facts and evidence argued in his petition. Petitioner’s third objection, however, fails to cite to any authority or evidence to show that reasonable jurists could have resolved the issues in a different manner or that the questions presented in his petition deserve encouragement to proceed. As such, for the reasons discussed, Petitioner’s Objections are overruled.

Accordingly, IT IS HEREBY ORDERED that Petitioner’s Petition for Writ of Habeas Corpus [dkt 1] is DENIED.

IT IS FURTHER ORDERED that a certificate of appealability is not warranted in this case because Petitioner has failed to make a substantial showing of the denial of any constitutional right

as to his habeas claims.

IT IS SO ORDERED.

S/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: February 3, 2012

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on February 3, 2012.

S/Marie E. Verlinde
Case Manager
(810) 984-3290